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9 Attorneys for Plaintiff  
City of San Jose

10  
11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
12 **COUNTY OF SANTA CLARA**

13 SAN JOSE POLICE OFFICERS'  
ASSOCIATION,

14 Plaintiff,

15 v.

16 CITY OF SAN JOSE, BOARD OF  
17 ADMINISTRATION FOR POLICE AND  
FIRE DEPARTMENT RETIREMENT  
18 PLAN OF CITY OF SAN JOSE, and DOES  
1-10 inclusive,

19 Defendants.

20  
21 AND RELATED CROSS-COMPLAINT  
AND CONSOLIDATED ACTIONS  
22

Case No. 1-12-CV-225926

[Consolidated with Case Nos. 112CV225928,  
112CV226570, 112CV226574, 112CV227864,  
112CV233660]

**DEFENDANT CITY OF SAN JOSE'S  
SUPPLEMENTAL DISCLOSURE OF  
EXPERT WITNESSES**

**Date of Exchange: May 20, 2013**

Complaint Filed: June 6, 2012  
Trial Date: July 22, 2013

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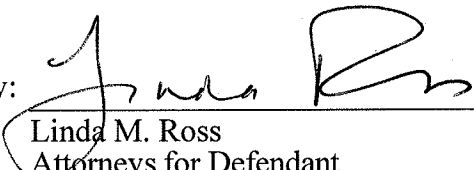
1 Pursuant to C.C.P. §2034.280, Defendant City of San Jose hereby discloses the following  
2 supplemental expert witnesses:

3 Kenneth W. Ruthenberg, Jr., Esq.  
4 Jeffrey C. Chang, Esq.  
5 Chang Ruthenberg & Long PC  
6 620 Coolidge Drive, Suite 350  
7 Folson, CA 95630-3184

8 DATED: May 20, 2013

MEYERS, NAVE, RIBACK, SILVER & WILSON

9 By:

  
10 Linda M. Ross  
11 Attorneys for Defendant  
12 City of San Jose

13 **DECLARATION OF LINDA M. ROSS**

14 I, Linda M. Ross, declare:

15 1. I have personal knowledge of the following facts and, if called as a witness, I could  
16 and would testify competently that said facts are true and for those facts I lack personal  
17 knowledge, I believe on information and belief that those facts are true.

18 2. Plaintiff San Jose Police Officers' Association ("POA") designated Benjamin F.  
19 Spater, Esq. as a retained expert. According to the POA, Mr. Spater is expected to testify  
20 regarding "defined benefit plans, including but not limited to the second tier plan within Measure  
21 B and deferred tax treatment of public employers' defined benefit pensions plans."

22 3. Given the vague nature of the POA's description of Mr. Spater's expected  
23 testimony, the City designates tax attorneys Kenneth W. Ruthenberg and Jeffrey C. Chang as  
24 expert witnesses. Mr. Ruthenberg, Mr. Chang, or another attorney from their law firm, Chang  
25 Ruthenberg & Long, will testify regarding the same subjects as Mr. Spater.

26 4. I have attached a true and correct copy of Mr. Ruthenberg's CV to this declaration  
27 as Exhibit A. I have attached a true and correct copy of Mr. Chang's CV to this declaration as  
28 Exhibit B.


5. Mr. Ruthenberg charges \$575.00 per hour for his services, including deposition testimony. Mr. Chang charges \$575.00 per hour for his services, including deposition testimony.

6. Mr. Ruthenberg and Mr. Chang have agreed to testify at trial and will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the expert testimony they are expected to give at trial, although such testimony is subject to change and amendment based upon the completion of discovery, the testimony Plaintiffs' experts, etc.

7. Defendant reserves the right to designate and call any rebuttal expert, additional experts or any other witnesses that are appropriate. Defendant further reserves the right to elicit any appropriate opinion testimony from the parties in this matter.

8. Defendant reserves the right to amend or supplement the expert opinions listed here depending on the results of the remaining discovery, issues raised by Plaintiffs' experts, and any other issues raised at trial.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of May, 2013, in Oakland, California.

  
Linda M. Ross

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## SERVICE LIST

<p>John McBride Christopher E. Platten Mark S. Renner WYLIE, MCBRIDE, PLATTEN &amp; RENNER 2125 Canoas Garden Ave, Suite 120 San Jose, CA 95125 Telephone: 408-979-2920 Fax: 408-989-0932 E-Mail: jmcbride@wmpirlaw.com cplatten@wmpirlaw.com mrenner@wmpirlaw.com</p>	<p>Attorneys for Plaintiffs/Petitioners, ROBERT SAPIEN, MARY MCCARTHY, THANH HO, RANDY SEKANY AND KEN HEREDIA (Santa Clara Superior Court Case No. 112CV225928)</p> <p>AND</p> <p>Plaintiffs/Petitioners, JOHN MUKHAR, DALE DAPP, JAMES ATKINS, WILLIAM BUFFINGTON AND KIRK PENNINGTON (Santa Clara Superior Court Case No. 112CV226574)</p> <p>AND</p> <p>Plaintiffs/Petitioners, TERESA HARRIS, JON REGER, MOSES SERRANO (Santa Clara Superior Court Case No. 112CV226570)</p>
<p>Gregg McLean Adam Jonathan Yank Gonzalo Martinez Jennifer Stoughton Amber L. West CARROLL, BURDICK &amp; MCDONOUGH, LLP 44 Montgomery Street, Suite 400 San Francisco, CA 94104 Telephone: 415-989-5900 Fax: 415-989-0932 E-Mail: gadam@cbmlaw.com jyank@cbmlaw.com gmartinez@cbmlaw.com jstoughton@cbmlaw.com awest@cbmlaw.com</p>	<p>Attorneys for Plaintiff, SAN JOSE POLICE OFFICERS' ASSOC. (Santa Clara Superior Court Case No. 112CV225926)</p>
<p>Teague P. Paterson Vishtap M. Soroushian BEESON, TAYER &amp; BODINE, APC Ross House, 2nd Floor 483 Ninth Street Oakland, CA 94607-4050 Telephone: 510-625-9700 Fax: 510-625-8275 E-Mail: tpaterson@beesontayer.com; vsoroushian@beesontayer.com;</p>	<p>Plaintiff, AFSCME LOCAL 101 (Santa Clara Superior Court Case No. 112CV227864)</p>

1 Harvey L. Leiderman  
2 Jeffrey R. Rieger  
3 REED SMITH, LLP  
4 101 Second Street, Suite 1800  
5 San Francisco, CA 94105  
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Attorneys for Defendant, CITY OF SAN JOSE,  
BOARD OF ADMINISTRATION FOR POLICE AND  
FIRE DEPARTMENT RETIREMENT PLAN OF  
CITY OF SAN JOSE  
(Santa Clara Superior Court Case No. 112CV225926)

AND

Necessary Party in Interest, THE BOARD OF  
ADMINISTRATION FOR THE 1961 SAN JOSE  
POLICE AND FIRE DEPARTMENT RETIREMENT  
PLAN  
(Santa Clara Superior Court Case No. 112CV225928)

AND

Necessary Party in Interest, THE BOARD OF  
ADMINISTRATION FOR THE 1975 FEDERATED  
CITY EMPLOYEES' RETIREMENT PLAN  
(Santa Clara Superior Court Case Nos. 112CV226570  
and 112CV226574 )

AND

Necessary Party in Interest, THE BOARD OF  
ADMINISTRATION FOR THE FEDERATED CITY  
EMPLOYEES RETIREMENT PLAN  
(Santa Clara Superior Court Case No. 112CV227864)

16 Stephen H. Silver, Esq.  
17 Richard A. Levine, Esq.  
18 Jacob A. Kalinski, Esq.  
19 Silver, Hadden, Silver, Wexler &  
20 Levine  
21 1428 Second Street, Suite 200  
22 P.O. Box 2161  
23 Santa Monica, California 90401

Attorneys for Plaintiffs/Petitioners  
SAN JOSE RETIRED EMPLOYEES ASSOCIATION,  
HOWARD E. FLEMING, DONALD S. MACRAE,  
FRANCES J. OLSON, GARY J. RICHERT AND  
ROSALINDA NAVARRO  
(Santa Clara Superior Court Case No. 1-12-cv-233660)

# EXHIBIT A

**KENNETH W. RUTHENBERG, JR.**

**EXPERIENCE**

**ATTORNEY**

**November 1989 to Present**

Chang, Ruthenberg & Long PC; Sacramento, California

Shareholder Attorney. Practice limited to employee benefits, including qualified retirement plans, other deferred compensation plans, stock plans and welfare benefits.

**ERISA ATTORNEY**

**June 1987 to October 1989**

McDonough, Holland & Allen; Sacramento, California

Member of the Corporate/Tax Section of the firm. Specialized in the tax and ERISA aspects of employee benefit and executive compensation plans including qualified retirement plans, other deferred compensation plans, stock plans and welfare benefits; estate planning and probate. Member of the Marketing Committee and the Retreat Committee.

**GENERAL COUNSEL**

**1979 to June 1987**

The NPCI Companies; Oakland, California

General corporate law for nine affiliated corporations. Advised employees, and consulted with clients and their advisors, regarding the legal aspects, especially tax and ERISA, of the full financial services provided to the clients. Responsibilities included implementation of deferred compensation and business insurance plans, tax qualification of over 1,000 retirement plans, establishment of licensed registered investment adviser, tax aspects of financial and estate planning advice, establishment of licensed real estate and securities brokerages, real estate investment syndications, equipment leasing and joint venture syndications, speaking at tax seminars for CPA firms and for clients.

Other major accomplishments included the tax-free reorganization of all nine sister corporations and the initiation of a technical newsletter. Also, acted as Vice President, Finance in charge of accounting department and all support services and interim Vice President, Operations in charge of subsidiary operations. Member of the board of directors.

**ASSISTANT GENERAL COUNSEL**

**1976 to 1979**

Rocor International; Palo Alto, California

Reported to the General Counsel of publicly traded, national transportation company and its thirty subsidiaries. General corporate law, securities law, motor carrier law and administrative law (SEC, ICC, and PUC). Accomplishments included expansion of ICC and PUC motor carrier operating authority, protection of operating authority from competitors, major corporate reorganization through multiple mergers, legal aspects of sale of all general trucking operations, and collection of \$8,000,000 of accounts receivable.

**DEPUTY DISTRICT ATTORNEY; LAW CLERK**

**1973 to 1975**

Alameda County, California District Attorney's Office

Criminal law including over 100 jury and court trials in the Municipal Court and Juvenile Divisions. Law Clerk in the Consumer Fraud Division.



## **EDUCATION**

Legal:

GOLDEN GATE UNIVERSITY LAW SCHOOL  
LL.M. (Tax), 1985  
Graduated first in class

UNIVERSITY OF CALIFORNIA  
HASTINGS COLLEGE OF THE LAW  
Juris Doctor, 1974  
Top 25% of graduating class  
Moot Court Competition Award

Undergraduate:

UNIVERSITY OF KANSAS  
SCHOOL OF BUSINESS  
B.S. Business Administration, 1969  
Business School Dean's Honor Roll

## **OTHER**

Adjunct professor of law in the Masters of Law in Taxation program at the University of the Pacific's McGeorge School of Law (1991 – 1994) and adjunct tax professor in the Masters of Taxation program at Golden Gate University (1991 – 1994).

Chairman of the Employee Benefits Committee of the Taxation Section of the State Bar of California (1997 – 1998 fiscal year).

Co-founder and past president of the Sacramento Employee Benefits Roundtable (now the Sacramento Chapter of the Western Pension & Benefits Conference).

Co-author of *Business Owner's Retirement Plan Survival Guide*, published 1996, Citadel Press.

Fellow of the American College Of Employee Benefits Counsel since 2001.

Included in "The Best Lawyers In America"® and in "Super Lawyers"®; named Best Lawyers' "Lawyer of the Year" for 2012 in Employee Benefits (ERISA) Law in the Sacramento Area.

## **U.S. ARMY**

**1969 to 1971**

Responsible for the public affairs aspects of Medal of Honor ceremonies conducted at The White House by the President. Magazine editor and speech writer for military officers.

## **RECENT PRESENTATIONS AND PUBLICATIONS**

February 2013	Co-Speaker, "Legislative And Regulatory Update" for the Sacramento Chapter of the Western Pension & Benefits Council
March 2013	Speaker, "The Seven Deadly Sins Of Plan Administration" and "Benefits Update – Hot Topics" for the San Joaquin Valley Chapter of the National Institute of Pension Administrators in Fresno
April 2013	Speaker, "Health Care Reform" and "PEPRA" as part of the legislative update for the Judicial Council Of California's Administrative Office Of The Courts' Labor Relations Academy

# EXHIBIT B



**CHANG RUTHENBERG & LONG PC**  
**EMPLOYEE BENEFITS LAWYERS**

## **JEFFREY C. CHANG**

Jeff's experience includes: assisting clients with California's Public Employees' Pension Reform Act; 457(b), 457(f), 401(k), Money Purchase, Defined Pension, and 403(b) plans; government excess benefits arrangements; Social Security Replacement Plans; Tax-Sheltered Annuities; Medical Expense Reimbursement Plans; Health Reimbursement Arrangements; Health Savings Accounts; Medical/Dental/Vision Plans; 419/419A Plans; COBRA/Cal-COBRA; HIPAA; Dependent Care Assistance and Educational Assistance Programs; Section 115 trusts; VEBAs; and GASB Statements 43 & 45. He is a charter fellow in the American College Of Employee Benefits Counsel, and has been regularly selected by his peers for inclusion in the publications "The Best Lawyers In America"® and "Superlawyers"®.

### **EDUCATION**

University Of California, Davis School Of Law, J.D., 1979  
University Of California, Berkeley, B.A., Economics, 1976

### **BAR AFFILIATIONS**

Sacramento County, California State, and American Bar Associations  
California State Bar and Sacramento County Bar Association, Labor Sections  
California State Bar and Sacramento County Bar Association, Tax Sections

### **WORK HISTORY**

Attorney, Shareholder                      1989 to Present  
Chang, Ruthenberg & LongPC, Sacramento, California

Attorney, Partner                          1984 to 1989  
Downey, Brand, Sacramento, California

Attorney                                      1979 to 1984  
Surr & Hellyer, San Bernardino, California

### **OTHER**

Taught qualified retirement plans and deferred compensation courses in the Master of Laws in Taxation program at McGeorge School of Law.

For the American Society Of Pension Professionals & Actuaries (ASPPA), served as Chairman of the IRS subcommittee of the Administration Relations Committee (1996 - 2001), chaired the Administration Relations Committee (2001 - 2002), Co-chaired the Government Affairs Committee (2002 - 2004), and served on board of directors.

A member the Executive Committee of the California State Bar Taxation Section and founded the Taxation Section's Employee Benefits Committee.

### **RECENT PRESENTATIONS AND PUBLICATIONS**

Speaker, "Impact of GASB's New Pension Standards, CalPERS Update and the 2013 Pension Reform Act," California Society of CPAs 2013 Governmental Accounting and Auditing Conference, May 2013.



**CHANG RUTHENBERG & LONG PC**  
EMPLOYEE BENEFITS LAWYERS

Speaker, "Pension Reform And Other Benefits Issues For Local Governments," California Society Of CPAs Sacramento Chapter, October 2012.

Speaker, "Planning For Retirement In A World Of Alternative Realities," CAJPA Fall Conference And Training Seminar, September 2012.

Speaker, "Pension Reform: Balancing The Budget," CSDA General Managers' Summit, July 2012.

"What's A District To Do?" published in "California Special District," Volume 5, Issue 5.

"GASB 45: Is Your District Confronting The Challenge?" published in "California Special District," Volume 2, Issue 6.

"Focus On Public Benefits" blog, <http://focusonpublicbenefits.com/>